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3 UNITED STATES DISTRICT CCOURT  
4 DISTRICT OF NEVADA  
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6 KEVIN LEE KENNEDY,

7 Plaintiff,

8 vs.  
9

10 SCOTT HENROID, *et al.*,  
11 Defendants.  
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Case No.: 3:18-CV-00161-RCJ-CBC

AMENDED ORDER ADOPTING AND  
ACCEPTING REPORT AND  
RECOMMENDATION (ECF No. 7)

13 Before the Court is the Report and Recommendation of United States Magistrate  
14 Judge Carla Baldwin Carry (ECF No. 7<sup>1</sup>) entered on November 21, 2018,  
15 recommending that the Court grant Plaintiff's application to proceed *in forma pauperis*  
16 (ECF No. 1) without having to prepay the full filing fee. No objection to the Report and  
17 Recommendation has been filed.  
18

19 This action was referred to Judge Carry under 28 U.S.C. § 636(b)(1)(B) and  
20 Local Rule IB 1-4 of the Rules of Practice of the United States District Court for the  
21 District of Nevada.  
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23 The Court has considered the pleadings and memoranda of the parties and other  
24 relevant matters of record pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule IB 3-2.  
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<sup>1</sup> Refers to Court's docket number.

1 IT IS HEREBY ORDERED that the Magistrate Judge's Report and  
2 Recommendation (ECF No. 7) entered on November 21, 2018, is ADOPTED and  
3 ACCEPTED.  
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5 IT IS FURTHER ORDERED that that Plaintiff's application to proceed in forma  
6 pauperis (ECF No. 1) without having to prepay the full filing fee is granted. Plaintiff will  
7 not be required to pay an initial installment fee. Nevertheless, the full filing fee will still  
8 be due, under 28 U.S.C. § 1915, as amended by the Prisoner Litigation Reform Act.  
9 The movant herein is permitted to maintain this action to conclusion without necessity of  
10 prepayment of fees or costs or the giving of security therefor. This order granting in  
11 forma pauperis status will not extend to the issuance and/or service of subpoenas at  
12 government expense.  
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14 IT IS FURTHER ORDERED that, under 28 U.S.C. § 1915 (b)(2), the Nevada  
15 Department of Corrections must pay to the Clerk of the United States District Court,  
16 District of Nevada, 20% of the proceeding month's deposit to the account of Kevin Lee  
17 Kennedy, #79138 (in months that the account exceeds \$10.00) until the full \$350.00  
18 filing fee has been paid for this action. The Clerk will send a copy of this order to the  
19 Chief of Inmate Services for the Nevada Department of Corrections, P.O. Box 7011,  
20 Carson City, NV 89702.  
21

22 IT IS FURTHER ORDERED that, even if this action is dismissed, or is otherwise  
23 unsuccessful, the full filing fee will still be due, under 28 U.S.C. §1915, as amended by  
24 the Prisoner Litigation Reform Act.  
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26 IT IS FURTHER ORDERED that Counts I and III be dismissed as malicious with  
27 prejudice.  
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1 IT IS FURTHER ORDERED that Count II be dismissed without prejudice but  
2 without leave to amend at this time.

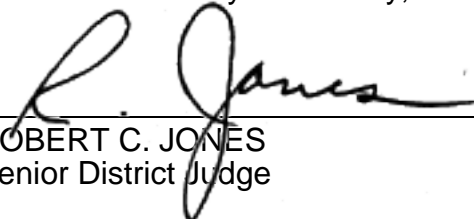
3 IT IS FURTHER ORDERED that Count IV be dismissed without prejudice.

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5 IT IS FURTHER ORDERED that Plaintiff shall thirty days (30) to file an amended  
6 complaint to the extent Plaintiff can assert facts that address the defects of the  
7 complaint. Failure to file a timely amended complaint will result in a recommendation  
8 that this case be dismissed in its entirety.

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10 IT IS FURTHER ORDERED that the Clerk of the Court shall send to Plaintiff the  
11 approved form for filing a § 1983 complaint and instructions for the same. If Plaintiff  
12 chooses to file a first amended complaint, he must use the approved form and he shall  
13 write the words "First Amended" above the words "Civil Rights Complaint" in the  
14 caption.

15 IT IS SO ORDERED.

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17 Dated this 16<sup>th</sup> day of January, 2019.

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20 ROBERT C. JONES  
21 Senior District Judge  
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